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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,135	08/31/2001	Jay Rossiter	50277-1786	4251
29989	7590	05/24/2004	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			ALAM, SHAHID AL	
1600 WILLOW STREET			ART UNIT	
SAN JOSE, CA 95125			PAPER NUMBER	
			2172	

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,135

Applicant(s)

ROSSITER ET AL.

Examiner

Shahid Al Alam

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12, 17, 21, 23</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 26 April 2004 for a Continued Examination (RCE) has been accepted. An action on the RCE follows.

Information Disclosure Statement

2. The reference cited in the information disclosure statement (IDS), Paper Numbers 12, 17, 21 and 23 have been considered by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 – 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,606,693 issued to Kenneth Nilsen et al. ("Nilsen") and further in view of U.S. Patent No. 6,240,416 issued to William Immon et al. ("Immon").

With respect to claim 1, Nilsen teaches a method for managing a system that includes a plurality of devices, wherein said configuration information dictates a manner of operation for one or more of said plurality of devices within network (Fig. 1, 120, 12, 124), arranged in a network as claimed comprising the steps of gathering and storing in a centralized repository (Fig. 1, 132, 134; col. 3, lines 36-38, and 60-65) that reflects configuration information about the system and each of the devices;

modifying data within the centralized repository to initiate configuration changes in the network (col. 4, lines 21-24; "add or delete" is equated with the claimed modifying step; col. 3, lines 60-64; the controller maintains the record of the type of request, load on each of the servers; col. 4, lines 21-24 - the addition and deletion of data based on the volume of data is considered equivalent to "configuration changes" as claimed); and propagating said changes from the repository to the devices in the network to cause said configuration changes (col. 4, lines 2-4).

With respect to claim 1, Nilsen teaches the central configuration controller contains configuration data showing how many database servers are available and how they are to be accessed can equate metadata (see column 3, lines 50 – 52). Nilsen does not explicitly teach a centralized repository metadata as claimed.

Immon discloses claimed centralized repository metadata (The metadata can be loaded into the managing server – either centralized or distributed – in an automated and synchronized manner, resulting in a network environment where there is integrity of loading, access, and operation. see column 3, lines 10 – 14; Immon).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teaching of Immon with the teaching of Nilsen to maintain the integrity and synchronicity of metadata in a distributed computing environment, and particularly in data warehouses, wherein servers can gain access to metadata stored in different sites within the network (column 2, lines 57 – 61; Immon).

Claim 2 is rejected for the same reasons as applied to claim 1 above. As to the recovering the repository from a backup upon failure (Nilsen shows configuration 134 as a backup for configuration 132; see also column 3, lines 32 – 38).

With respect to claim 3, which is dependent on claim 1, Nilsen teaches a centralized data repository resides outside the system (elements 132 and 134 are located at physically distant places and elements 132 and 134 are shown apart from each other and Immon teaches metadata for a distributed computing environment; see column 3, lines 2 – 3).

Claim 4 is rejected for the same reasons as applied to claims 1 and 2 above because claims 1 and 2, in combination, include all the elements of claim 4. As stated in column 3, lines 37 – 38, in case of failure, Nilsen utilizes a backup/redundant configuration 134 to restore configuration 132.

Claim 5 is essentially the same as claim 1 or claim 4, except that it recites a second repository. Nilsen utilizes a redundant alternate configuration 134 to restore configuration 132. See column 3, lines 34 – 36.

Claim 6 is essentially the same as claim 1 or claim 4 or claim 5, except that it recites a step of managing configuration of at least two layers of a system.

As to the two layers of a system as claimed, Nilsen teaches historical analysis of data (col. 3, lines 13-15) and the load on each of the database servers (col. 3, lines 62).

Historical analysis of data is analytical processing, usually carried out by an OLAP-type component. Determination of load on servers is analysis of input/ output operations, usually carried out by a transaction processing component. Therefore Nilsen teaches at least two layers.

See also MPEP 2144.01 for Implicit Disclosure: "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

Claim 7 is essentially the same as claims 1 or 4 or 5 except that it sets forth the claimed invention as a computer program product rather than a method and rejected for the same reasons as applied above. It is noted that software comprising instructions can be loaded in a general purpose computer to turn it into a specific purpose computer, which then performs the specific steps recited in claims 1 – 6.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (703) 305-2358. The examiner can normally be reached on Monday-Thursday 8:00 A.M. - 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shahid Al Alam
Primary Examiner
Art Unit 2172

15 May 2004